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| 09/865,180 | 05/24/2001 | Maurice Eduardus Theodorus van Esbroeck | V0028/258606 | 4606 |

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EXAMINER

EDWARDS, LAURA ESTELLE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1734

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,180

Applicant(s)

THEODORUS VAN ESBROECK ET AL.

Examiner

Laura Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-34,61-65,67 and 69-80 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 30-34,61-65,67 and 69-80 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Specification

The abstract of the disclosure is objected to because it is two separate paragraphs not a single paragraph. Also, the abstract contains legal phraseology such as “means” and such language should be removed. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informality: on page 27, Applicants reference the claims. All references to the claims in the specification should be removed. Appropriate correction is required.

Claim Objections

Claims 32 and 76 are objected to because of the following informalities: in claim 32, please note that the status identifier is improper. It is noted as being “withdrawn” and should be noted as being --previously presented--. In claim 76, line 2, “poultry wind” should be changed to --poultry wing--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 61, 63, 72, 78, and 80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 61, lines 1 and 3, it is unclear whether at least one marinade application station is meant to be claimed or whether plural marinade application stations are meant to be claimed? Clarification is necessary.

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For claim 63, see the response to claim 61.

For claim 72, see the response to claim 61.

For claim 78, see the response to claim 61.

In claim 80, line 1, Applicants recite "additive agent" and it is unclear whether Applicants meant --adhesive agent--. Clarification is necessary.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 30, 61, 67, 69, 70, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524).

Dew teaches an apparatus for treating meat products comprising a conveyor device having meat product holders which are displaceable along a track to convey the meat products; at least one aqueous based flavoring application or marinade station located adjacent the conveyor

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device, each meat product sequentially passed by the application station, and the application station comprising at least one nozzle for supplying the aqueous based flavoring under pressure so as to be jetted onto the outer surface of the meat product. Dew is silent concerning the use of plural application stations wherein at least one application station provides a different marinade than the other stations. However, it was known in the art, at the time the invention was made, to provide plural marinade application stations to treat a conveyed meat product with one marinade station providing a different marinade than the other stations as evidenced by Ludwig (see col. 3, lines 45-49 and col. 4, lines 8-10). It would have been obvious to one of ordinary skill in the art to provide plural marinade application stations with at least one different marinade from the rest of the stations as taught by Ludwig, in the Dew apparatus in order to provide a more flavorful meat product due the incorporation of plural flavoring treatments to a single meat product.

With respect to the use of some nozzles for different marinades, Ludwig recognizes that the different marinades can be applied to different portions of a given meat product for providing a greater oil or fat content to one part (breast) of the meat as oppose to another part (leg) as evidenced by col. 3, lines 45-49 such that it would be within the purview of one skilled in the art to utilize some nozzles in the apparatus, as defined by the combination above, with different marinades to coat at least a selected portion of the outer surface of the meat product.

With respect to the conveyor providing the meat product in different orientations or positions relative to the application nozzles, see Dew, col. 5, lines 9-22.

Claims 31-33 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524) as applied to claim 30 above, and further in view of Muschany (US 4,627,007).

The teachings of Dew and Ludwig have been mentioned above but neither teach or suggest detection means for observing a parameter of the meat product prior to application of the marinade. However, it was known in the art, at the time the invention was made, to provide a detection means to observe the shape and/or anatomy of the meat product via use of a photosensor or camera unit to facilitate determination of the proper amount of flavoring additive to apply to the meat product as evidenced by Muschany (see col. 5, lines 9-15 and lines 25-32). It would have been obvious to one of ordinary skill in the art to provide a detection means as taught by Muschany in the apparatus as defined by the combination above in order to enable the observation of the shape and/or anatomy of the meat product to determine the proper amount of flavoring additive or marinade to apply to the meat product.

With respect to the use of a weigher, neither Dew nor Ludwig recognize the use of a weigher, however, Muschany recognizes the use of the weigher in conjunction with the detection means to facilitate determination of the proper amount of flavoring additive to apply to the meat product (see Muschany col. 5, lines 25-39). It would have been obvious to one of ordinary skill in the art to provide a weigher in combination with the detection means in the apparatus as defined by the combination above in order to determine the proper amount of flavoring additive or marinade to apply to the meat product.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524) as applied to claim 30 above, and further in view of Evans et al (US 6,010,726).

The teachings of Dew and Ludwig have been mentioned above but neither teach or suggest an adhesive applying means for applying adhesive to selected portions of the meat product prior to the marinade application. However, it was known in the art, at the time the invention was made, to utilize a resistivity modification composition (i.e., adhesive composition), via an atomizing sprayer system, on an edible food product to facilitate the adherence of solid or liquid flavorings onto a desired surface of the food product as evidenced by Evans et al (see col. 3, lines 45 to col. 4 line 44; col. 10, lines 19-59). It would have been obvious to one of ordinary skill in the art to provide an atomized spray adhesive applying means as taught by Evans et al in the apparatus as defined by the combination above in order to treat the meat product first with adhesive composition to ensure adherence of the later applied marinades to the selected surface of the meat product.

Claims 63 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524) as applied to claim 30 above, and further in view of Vincent et al (GB 2,177,585).

The teachings of Dew and Ludwig have been mentioned above but neither teach or suggest the use of shielding means to shield selected portions of the meat product from being sprayed with marinade. However, it was known in the art, at the time the invention was made to utilize shielding means to shield selected portions of a food product from being sprayed with a

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liquid coating material as evidenced by Vincent et al (see pg. 3, lines 22-36). As noted from the pg. 3 cite, Vincent et al utilize the shielding means to provide a pattern, lettering, figuring, or pictures on the food product such that it would have been obvious to one of ordinary skill in the art to provide shielding means in the apparatus as defined by the combination above in order to enable selected portions of the meat product to be shielded from marinade sprayed thereon to effect a pattern, lettering, figuring, or pictures on the meat product.

With respect to the use of at least one application station including means for generating gas flow with particles entrained in the gas flow, neither Dew or Ludwig recognize a dry marinade application station whereby seasoning/flavoring in particulate form is sprayed under pressure onto to the meat product. However, Vincent et al recognize pressurized spraying of seasoning/flavoring in powder form onto the food product (see pg. 2, lines 86-100 and pg. 3, lines 1-7). In light of the teachings of Vincent et al, it would have been obvious to one of ordinary skill in the art to provide at least one dry marinade application station including means for generating gas flow with flavored particles entrained in the gas flow in the apparatus as defined by the combination above as an alternative dry marinade application system.

Claims 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524) as applied to claim 30 above, and further in view of Newman (US 5,668,634) or Gorl (US 4,413,279).

Dew and Ludwig teach an apparatus for treating meat products as set forth above but neither teach or suggest the use of analyzing means in the form of a camera to inspect the quality of the final meat product. However, it was known in the art, at the time the invention was made

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to utilize analyzing means in the form of a camera to establish the quality of a processed meat product as evidenced by either Newman or Gorl (see abstracts). In light of the teachings of either Newman or Gorl, it would have been obvious to one of ordinary skill in the art to provide analyzing means in the form of a camera to determine the final quality of the processed meat products so as to determine whether further processing was required.

Claims 71 and 74-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524) as applied to claim 30 above, and further in view of Janssen et al (WO 93/13671).

Dew and Ludwig teach an apparatus for treating meat products as set forth above but neither explicitly teach rotary meat product holders. However, it was known in the art at the time the invention was made, to utilize rotary meat product holders in conjunction with the meat conveyor device so as to enable processing and inspection of all surfaces of the meat product as evidenced by Janssen et al (see pg. 10, lines 11-23). It would have been obvious to one of ordinary skill in the art to provide rotary meat product holders as taught by Janssen et al in conjunction with the meat conveyor device of the apparatus defined by the combination above in order to enable processing and inspection of all surfaces of the meat product.

Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524) and Janssen et al (WO 93/13671).

Dew teaches an apparatus for treating meat products comprising a conveyor device having meat product holders which are displaceable along a track to convey the meat products; at

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least one aqueous based flavoring application or marinade station located adjacent the conveyor device, each meat product sequentially passed by the application station, and the application station comprising at least one nozzle for supplying the aqueous based flavoring under pressure so as to be jetted onto the outer surface of the meat product. Dew is silent concerning plural application stations wherein at least one application station provides a different marinade than the other stations and the meat product holders comprising a rotary member for rotating the meat product about a vertical axis. However, it was known in the art, at the time the invention was made, to provide plural marinade application stations to treat a conveyed meat product with one marinade station providing a different marinade than the other stations as evidenced by Ludwig (see col. 3, lines 45-49 and col. 4, lines 8-10). It would have been obvious to one of ordinary skill in the art to provide plural marinade application stations with at least one different marinade from the rest of the stations as taught by Ludwig, in the Dew apparatus in order to provide a more flavorful meat product due the incorporation of plural flavoring treatments to a single meat product. Also, it was known in the art at the time the invention was made, to utilize rotary meat product holders in conjunction with the meat conveyor device so as to enable processing and inspection of all surfaces of the meat product as evidenced by Janssen et al (see pg. 10, lines 11-23). It would have been obvious to one of ordinary skill in the art to provide rotary meat product holders as taught by Janssen et al in conjunction with the meat conveyor device of the apparatus defined by the combination above in order to enable processing and inspection of all surfaces of the meat product.

Claim 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524) and Janssen et al (WO 93/13671) as applied to claim 77 above, and further in view of Vincent et al (GB 2,177,585).

The teachings of Dew, Ludwig, and Janssen et al have been mentioned above but none teach or suggest at least one application station including means for generating gas flow with particles entrained in the gas flow so as to provide a dry marinade application station whereby seasoning/flavoring in particulate form is sprayed under pressure onto to the meat product. However, Vincent et al recognize pressurized spraying of seasoning/flavoring in powder form onto the food product (see pg. 2, lines 86-100 and pg. 3, lines 1-7). In light of the teachings of Vincent et al, it would have been obvious to one of ordinary skill in the art to provide at least one dry marinade application station including means for generating gas flow with flavored particles entrained in the gas flow in the apparatus as defined by the combination above as an alternative dry marinade application system.

Claims 79 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dew (US 4,196,221) in view of Ludwig (US 5,449,524), Evans et al (US 6,010,726), and Janssen et al (WO 93/13671).

Dew teaches an apparatus for treating meat products comprising a conveyor device having meat product holders which are displaceable along a track to convey the meat products; at least one aqueous based flavoring additive application or marinade station located adjacent the conveyor device, each meat product sequentially passed by the application station, and the application station comprising at least one nozzle for supplying the aqueous based flavoring

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under pressure so as to be jetted onto the outer surface of the meat product. Dew is silent concerning 1) plural application stations wherein each application station provides a different marinade, 2) an adhesive application station prior to the additive application stations, and 3) the meat product holders comprising a rotary member for rotating the meat product about a vertical axis. However, it was known in the art, at the time the invention was made, to provide different marinade application stations to sequentially treat a conveyed meat product as evidenced by Ludwig (see col. 3, lines 45-49 and col. 4, lines 8-10). It would have been obvious to one of ordinary skill in the art to provide different marinade application stations as taught by Ludwig, in the Dew apparatus in order to provide a more flavorful meat product due the incorporation of plural flavoring treatments to a single meat product. Secondly, it was known in the art, at the time the invention was made, to utilize a resistivity modification composition (i.e., adhesive composition), via an atomizing sprayer system, on an edible food product to facilitate the adherence of solid or liquid flavorings onto a desired surface of the food product as evidenced by Evans et al (see col. 3, lines 45 to col. 4 line 44; col. 10, lines 19-59). It would have been obvious to one of ordinary skill in the art to provide an atomized spray adhesive applying means as taught by Evans et al in the apparatus as defined by the combination above in order to treat the meat product first with adhesive composition to ensure adherence of the later applied marinades to the selected surface of the meat product. Thirdly, it was known in the art at the time the invention was made, to utilize rotary meat product holders in conjunction with the meat conveyor device so as to enable processing and inspection of all surfaces of the meat product as evidenced by Janssen et al (see pg. 10, lines 11-23). It would have been obvious to one of ordinary skill in the art to provide rotary meat product holders as taught by Janssen et al in

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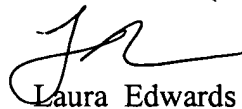
conjunction with the meat conveyor device of the apparatus defined by the combination above in order to enable processing and inspection of all surfaces of the meat product.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura Edwards
Primary Examiner
Art Unit 1734

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December 2, 2005